

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

M.D., ET AL.,)	CASE NO: 2:11-CV-0084
)	
Plaintiffs,)	CIVIL
)	
vs.)	Corpus Christi, Texas
)	
GOVERNOR RICK PERRY, ET AL.,)	Tuesday, December 2, 2014
)	(2:28 p.m. to 3:20 p.m.)
Defendants.)	(3:43 p.m. to 4:37 p.m.)

DIRECT EXAMINATION OF PAUL MORRIS
DURING TRIAL - DAY 2

BEFORE THE HONORABLE JANIS GRAHAM JACK,
UNITED STATES DISTRICT JUDGE

Appearances:	See Next Page
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Corpus Christi, Texas; Tuesday, December 2, 2014; 2:28:05 p.m.

(Partial transcript; Direct Examination of Paul Morris)

MR. YETTER: On behalf of the Plaintiffs, your Honor, we will call another DFPS executive, Paul Morris, who is over the Licensing group. So Ms. Black was over the CPS and Mr. Morris is over Licensing.

THE COURT: All right.

PAUL MORRIS, PLAINTIFFS' WITNESS, SWORN

(Pause)

DIRECT EXAMINATION

BY MR. YETTER:

Q Well, good afternoon, sir. Would you introduce yourself to the Court please?

A Good afternoon, I'm Paul Morris. I'm the Assistant Commissioner for Child Care Licensing for the Department of Family and Protective Services.

Q Thank you. Let me go through that a little bit slower, Mr. Morris. So we just heard from Ms. Black. Were you in the courtroom for her testimony?

A Yes, I was.

Q And she is the Assistant Commissioner for CPS, Child Protective Services, true?

A Yes, she is.

Q And you are the Assistant Commissioner for Child Care Licensing?

1 A That's correct, yes, sir.

2 Q Which includes Residential Child Care Licensing?

3 A It does, yes.

4 Q And you have been deposed in this case, have you not, sir,
5 given testimony under oath?

6 A Yes, I have.

7 Q You have been the Assistant Commissioner now for about a
8 year and a half, have you not; at least in an interim position
9 and then permanent?

10 A That's correct.

11 Q Okay. So you were first in an interim position in July of
12 2013 and then you became permanent about a year ago in the late
13 fall of 2013?

14 A I became the permanent Assistant Commissioner for Child
15 Care Licensing on October 1st of that year.

16 Q 2013?

17 **THE COURT:** Of what?

18 **MR. YETTER:** 2013. A year ago.

19 **THE COURT:** Thank you.

20 **MR. YETTER:** In October, a year.

21 **BY MR. YETTER:**

22 Q Your background is financial, is it not, sir?

23 A That is a part of my background, yes, sir.

24 Q Let me just start it then. Your education is in
25 financial, is it not, sir?

1 A I have a Bachelor's in Accounting from the University of
2 Texas at Austin, yes, sir.

3 Q And you then took the test to become a Certified Public
4 Accountant?

5 A I did.

6 Q You are not a specialist in childhood, child welfare, or
7 any specialist in that regard by education?

8 A I do not have an education in early childhood development
9 or in --

10 Q Anything like that?

11 A No, sir.

12 Q The first time you came to the Department of Family and
13 Protective Services was about six years ago?

14 A I believe it was August 1st of 2005, if I'm not mistaken.

15 Q 2005. Okay. Maybe I got that wrong. I thought you were
16 in Internal Audit at least by 2008.

17 A I'm sorry, yes, let me correct that. The years seem to
18 roll by.

19 Q Years past; the years go by quickly.

20 A I apologize, your Honor.

21 Q Okay. So you've been with the DFPS for about six years?

22 A Yes.

23 Q And you started in a financial position in Internal
24 Audits?

25 A More internal control and oversight.

1 Q Fair enough.

2 A Not so much financial.

3 Q And then a few years later you were elevated to this
4 position of Assistant Commissioner of Child Care Licensing.
5 And in Licensing, it obviously covers licensing but also some -
6 - the Department's investigative functions?

7 A That's correct. I would just add one correction, or one
8 addition. Between my tenure as the Internal Audit Director and
9 becoming the Assistant Commissioner, I served as the Deputy
10 Chief Financial Officer for six or seven months, --

11 Q Fair enough.

12 A -- beginning in January of 2013.

13 Q Okay. So you had a kind of controller's position and then
14 you were in a financial position. And then about a year and a
15 half ago you became more of an operational position with
16 Licensing and Investigations?

17 A That's accurate, yes, sir.

18 Q One of the groups that reports to you is this Residential
19 Child Care Licensing. I'm pausing on that because we're going
20 to talk a little bit about it. You guys call that RCCL?

21 A Yes, sir. I may also refer to it as RC, --

22 Q Fine.

23 A -- if that's okay.

24 Q And that involves investigations of incidents for foster
25 children in a variety of settings, true?

1 A That is one of their functions, yes, sir.

2 Q And you also are head of a group that's called the
3 Performance Management Unit, PMU?

4 A No, sir. Actually, the Division Administrator for the
5 Performance Management Unit reports directly to me as one of my
6 direct reports.

7 Q Okay. So that's -- and that's also under your umbrella,
8 the PMU, the Performance Management Unit. Those are important
9 units aren't they?

10 A Yes, they are.

11 Q Okay. Now, the -- I'm going to just call it the Licensing
12 group, this Residential Licensing group -- Residential Child
13 Care Licensing group is important because these inspectors are
14 supposed to check and accurately investigate instances of
15 alleged abuse or neglect of children, right?

16 A Correct. And care situations, yes.

17 Q Your inspectors are important because they're supposed to
18 ensure that the facilities that these children are in are safe
19 and up to standard, right?

20 A Yes.

21 Q And so these investigations, they cover things like
22 reports of physical abuse?

23 A That is correct.

24 Q Sexual abuse?

25 A Yes, sir.

1 Q Neglect?

2 A Neglectful supervision, yes, sir.

3 Q Yes. And all of these are harmful to the children, are
4 they not?

5 A Yes, all three of those things would be harmful to
6 children, yes, sir.

7 Q Children, whether they are in TMC or PMC, correct?

8 A Temporary Managing Conservatorship or Permanent Managing
9 Conservatorship? Yes.

10 Q And one of the important reasons you do an investigation
11 is that so it doesn't happen again, that alleged abuse, right?

12 A That is one of the desired outcomes. I would say, more
13 accurately, you do the investigation to determine the facts and
14 reduce risks to children in care.

15 Q You can come up -- just generally, in an investigation the
16 way you guys do it, you can come up with at least three
17 outcomes. You can decide that it actually probably happened,
18 true?

19 A Yes. I believe you're referring to the reason to believe
20 outcome.

21 Q I am indeed. And reason to believe is a bad thing. When
22 you have an alleged abuse and you find that there is a reason
23 to believe, the preponderance of the evidence shows that there
24 was abuse, neglect, or exploitation, you've got to do a lot of
25 things to make sure that you investigate it, follow up, fix it,

1 true?

2 A Correct.

3 Q Second thing you could find -- or, among the three things
4 you could find is, well, I don't think -- we don't think
5 anything happened; that the preponderance of the evidence shows
6 that there was no abuse, neglect, or exploitation. You call
7 that ruled out?

8 A Yes.

9 Q So you can either find there is a reason to believe or you
10 can rule it out. And then there is a third category. And
11 they're both important, obviously, to get right, true?

12 A That is correct. You want to make sure you're accurate.

13 Q And the third category is like the head scratcher, I don't
14 know; which you call unable to determine?

15 A Yes. We refer to those as UTD.

16 Q UTD. And that means you couldn't make a finding because
17 you were unable to gather enough facts; that the investigator
18 and the supervisor of the investigator concluded that there is
19 not a preponderance of the evidence either way to reason to
20 believe or ruled out. You couldn't conclude either way?

21 A Correct.

22 Q Now those are all important because if you make a mistake
23 on a ruled out, when abuse actually did happen, the perpetrator
24 could stay in the -- the child victim could stay in a home
25 where there is a perpetrator where bad things had happened,

1 right?

2 A That is a possibility, yes.

3 Q And when you do this UTD, I don't know, the head
4 scratcher, unable to determine, and you do it wrong, again, if
5 there -- actually something happened, in fact, then a child
6 victim could be at risk in the future?

7 A That is correct.

8 Q These investigations have to be professional, true?

9 A That is true.

10 Q They have to be thorough?

11 A We want them to be thorough and accurate.

12 Q They have to be accurate. Thank you.

13 They have to be reliable, don't they?

14 A We need to be able to rely on their work, yes, sir.

15 Q Because these children, you know, the State is responsible
16 for their physical, emotional, and psychological well being,
17 true?

18 A The State is responsible for their well being, yes, sir.

19 Q Now, if your investigators don't do a good job because
20 they're too busy, that's a bad thing isn't it?

21 A If they do a bad job for any reason that's something that
22 we need to look into.

23 Q I agree with that. And it's certainly a bad thing if they
24 don't do a good job, if they don't make a reliable
25 investigation because they're too busy, isn't it? That's a bad

1 thing?

2 A Yes, it would be.

3 Q Now, in the last several years, the number of children
4 that your investigative group is responsible for, your
5 investigators and your inspectors, has gone up hasn't it?

6 A I believe it has, yes.

7 Q It has gone up because the State is growing and because --
8 actually, this is one of the things, your Honor, that you
9 brought up yesterday, there are undocumented immigrants coming
10 into Texas, true?

11 A That is one of the populations that we deal with.
12 Specifically, I think you may be referring to ORR, or basically
13 undocumented children who may be coming into the country
14 without being accompanied by an adult.

15 Q Sure. In fact, you have found this year, in 2014, there
16 was a sharp increase in the number of unaccompanied minor
17 children crossing the border and entering the Texas foster care
18 system, wasn't there?

19 A That is correct. Yes, sir.

20 Q And when you made a request for more funding -- and I'm
21 looking at Plaintiffs' Exhibit 898. It's in evidence, your
22 Honor. It hasn't been objected to. Let me just first go to
23 the top. Let's blow up the top. This is a proposal. You're
24 asking for more money, are you not, sir?

25 A Yes, we are.

1 Q It is dated -- this has a date on it, due by March 7th,
2 2014, does it not?

3 A That's when the initial first drafts of these were due.
4 That's correct.

5 Q Let's go into the text and it has an executive sponsor.
6 Right there toward the middle. Right there.

7 A Yes.

8 Q Perfect. Do you see on the bottom right-hand corner; do
9 you see your name as the executive sponsor, Paul Morris?
10 That's you, is it not?

11 A That is correct.

12 Q And then there is a name here in the box for number two,
13 Jean Shaw. She works for you, does she not, in the
14 investigative area?

15 A Ms. Shaw is my direct report as the Director of Field for
16 Residential Licensing, yes.

17 Q And you were asking for more money because there was a
18 significant and dramatic increase in caseload wasn't there?

19 A We were asking for more resources and additional staff to
20 do many things, but that is one of the things that I believe we
21 noted in the exceptional item.

22 Q Let's go to Page 2 and the top paragraph that has the one
23 and the two in it. Just that one piece. Perfect. "RCCL
24 staff"; that's that Residential Child Care Licensing group.
25 That's yours, isn't it?

1 A Yes, it is.

2 Q "Staff experienced a 96 percent increase -- " This is in
3 March of this year, 2014. " -- in the average monthly caseload
4 between fiscal year 2013 and the first three months of fiscal
5 year 2014." That's a true statement, isn't it? Ninety six
6 percent increase in the caseload?

7 A Actually, that 96 percent increase was actually an error
8 that we noted later.

9 Q Okay. So it's not a true statement.

10 A There was a change --

11 Q What is the increase?

12 A I want to say that the average monthly caseload right now
13 is right around 18 or 19 cases per worker in this division.

14 Q Well, I see the numbers there that say the caseload went
15 from 9.2 to 18, right?

16 A That's correct.

17 Q That would be --

18 **THE COURT:** So is that whole sentence wrong?

19 **THE WITNESS:** Yes, the whole sentence is incorrect.

20 And the reason -- there is actually a reason for that, your
21 Honor.

22 **THE COURT:** What's the reason?

23 **THE WITNESS:** Well, what happened during the year
24 that I was coming up to speed with it in Child Care Licensing,
25 there was actually a change in how that measure was calculated.

1 And that change in the calculation measure, it escaped me. I
2 did not catch that, so it made it into this first draft as
3 being a 96 percent increase, from 9.2 to 18. In specific,
4 basically we've taken the average monthly case load -- this was
5 for all staff together.

6 **THE COURT:** Uh-huh.

7 **THE WITNESS:** And, as it has been explained to me,
8 what we did was -- or, the caseload is now calculated, broken
9 out for inspectors and investigators.

10 **BY MR. YETTER:**

11 Q Okay. So you're now saying that you're breaking out the
12 caseload from inspectors to investigators in 2014, right?

13 A Correct.

14 Q And so that caseload should go down, right?

15 A Well, the caseload for investigators still remains at
16 around 18 to 19 percent, if I recall.

17 Q So if I can -- You're a numbers guy?

18 A Uh-huh.

19 Q But if you're telling me that the caseload, combined, in
20 2013 is nine, that's nine cases per investigator or inspector,
21 right? True?

22 A True.

23 Q And then in 2014 it's double and you're breaking them
24 apart; that math doesn't work.

25 A No, it doesn't.

1 Q Okay. Now, another thing that kind of makes me wonder
2 about what you just said is that not only did you say that
3 there had been this big increase, but you gave two reasons for
4 the big increase, didn't you?

5 A Yes, we did, in this draft.

6 Q So if the first sentence is wrong, is number one and
7 number two wrong too?

8 A Well, I would say that when we say the first sentence is
9 an increase and then the number of serious incidents in
10 Residential Child Care Operations that I think would be one of
11 the things that would be attributable, or would attribute to an
12 increase in caseloads if we saw it.

13 Q Okay. Is number one --

14 A And we did, in fact, see --

15 Q -- that you've got listed there; is it accurate?

16 **THE COURT:** He just said is that true or not true;
17 number one?

18 Q Is it true or not true?

19 A Yes, it is true.

20 Q Okay. So, whatever the monthly caseload is, number one
21 says you had an "increase in serious incidents in Residential
22 Child Care Operations." That's for the children, right. It
23 increased in serious incidents, which resulted in an increase
24 in investigations, true? That is true? That's in 2014, right?

25 A Now, I'm -- you're referring to?

1 Q Number one. You see where we highlighted it?

2 A Yes.

3 Q Okay. Number two -- you say that's true, right; number
4 one is true?

5 A Yes. There was an increase in the number of serious
6 incidents in Residential Child Care Operations.

7 Q Okay. Number two says a "sharp increase in the number of
8 unaccompanied minor children crossing the border." True?

9 A That was true. There was a sharp increase.

10 Q "Which has created a dramatic increase in the number of
11 licensed operations that serve these children." True?

12 A That's true.

13 Q "As well as a dramatic increase in the capacity of the
14 licensed operations that serve these children." True?

15 A There was in increase, yes.

16 Q This says "dramatic."

17 A Well then --

18 Q Right?

19 (No audible response)

20 Okay.

21 A A pretty large increase in facilities, yes.

22 Q So the bottom line --

23 **THE COURT:** Did you change that in the final draft?

24 **THE WITNESS:** Actually, this point, your Honor, was
25 going to -- it will be removed from the support for the

1 exceptional item. It won't leave the agency and it's not one
2 of the things that we're going to refer to, but we still feel
3 like the need for additional staff within Residential Child
4 Care Licensing is there.

5 **BY MR. YETTER:**

6 Q Okay. So some of this is true, some of it's not true, and
7 what have you done with the proposal?

8 **THE COURT:** Was that supplied to you by the State?

9 **MR. YETTER:** Yes, absolutely, Judge. This is --

10 **THE COURT:** Have they given you a corrected one or
11 said it wasn't true?

12 **MR. YETTER:** No. In fact, he has been deposed about
13 this.

14 **MR. ALBRIGHT:** Your Honor, they thoroughly deposed
15 him on this. And for him to say that it has never been made
16 clear to them is not correct.

17 **THE COURT:** Oh, he said the same thing on the
18 deposition?

19 **MR. ALBRIGHT:** Yes, he corrected it in his
20 deposition.

21 **THE COURT:** Okay.

22 **MR. ALBRIGHT:** And that's a misrepresentation.

23 **MR. YETTER:** Okay. I disagree.

24 **THE COURT:** Then it's all cleared up.

25 **MR. YETTER:** Okay. I disagree, your Honor.

1 **THE COURT:** Okay.

2 **MR. YETTER:** But the point is --

3 **THE COURT:** He didn't say that in his deposition?

4 **MR. YETTER:** No. At least not that I read, your
5 Honor.

6 **THE COURT:** Do you remember saying it?

7 **THE WITNESS:** Yes, ma'am, I did. I actually refer to
8 it in the deposition. Ms. --

9 **MR. YETTER:** What did you -- what are you talking
10 about now? I'm sorry, I didn't -- maybe I'm missing what
11 you're saying you cleared up.

12 **THE COURT:** That exhibit.

13 **THE WITNESS:** Certainly. Let me --

14 **THE COURT:** Did you tell him it was not correct?

15 **THE WITNESS:** Yes, I explained to him in the
16 deposition and when I was speaking with the attorneys that this
17 was a mistake that we had made. Part of the issue was that --

18 **BY MR. YETTER:**

19 Q Which was the mistake you're talking about?

20 A I'm talking about the 96 percent increase in the average
21 monthly caseload.

22 Q Okay. But you said number one and --

23 A As I recall, in the deposition I believe I said that was
24 one of the things that we noted in error.

25 Q You did, but you said number one and two is correct --

1 were correct.

2 A Well, we have seen an increase in the number of serious
3 incidents in Residential Child Care Operations. That's one of
4 the things that we want to address. We have seen a sharp
5 increase in the number of unaccompanied minor children --

6 Q But now you're telling the Judge --

7 A -- crossing the border.

8 Q -- you're going to take this out. That's not what you
9 said in your deposition.

10 A Sir, all I can tell you is that we made a mistake on the
11 exceptional item when we supported it with the 96 percent
12 increase in the caseload. When we noted that error, I made
13 sure to notify my --

14 Q Okay. I'll grant you --

15 A -- Chief Financial Officer.

16 Q I'll grant you.

17 A But I think that it's clear that we have seen an increase
18 in the number of unaccompanied children.

19 Q I will grant you that you did say that you had split out
20 the inspectors and the investigators. I didn't understand how
21 it made any sense that you would go up if you actually split
22 the average between the investigators and the inspectors. So
23 if investigators now have 18, how many do inspectors have, like
24 one?

25 A No.

1 Q Well, if you've got, combined, nine for investigators and
2 inspectors, and then you break out investigators and it goes to
3 18, how many do inspectors have?

4 A Well, part of the reason behind the calculation, if you
5 look at the calculation, it works like this. We don't just
6 take caseloads, the total number of caseload, and then divide
7 it by the number of staff that we have. So there are
8 differences there in the staff case assignable. For instance,
9 your Honor, if we have a brand new caseworker who has not
10 completed their basic skills development; if they have not been
11 there for 12 months or longer, they're not assignable a case.
12 And I believe if you'll look at our FY14 you'll notice that --
13 and you may not be aware of these numbers, but we had, you
14 know, over 25-26 new hires in that fiscal year alone. Also, if
15 someone has completed their basic skills development course but
16 have been there for, I believe, six months or less, then they
17 would only be assigned -- or, only half of that number of those
18 investigators would be included in the calculation. Once
19 someone is fully case assignable, that's when the full weight
20 of that worker is included in the calculation. So we, I
21 believe, have different staff and different levels of being
22 case assignable between inspectors and investigators. And
23 that's the way I understand the case measure to be different
24 between 9.2 to 18 from one fiscal year to the other.

25 Q Okay. I'm sorry. I tried to follow you.

1 A And I'm sorry I haven't done the numbers myself and
2 calculated it, but --

3 Q Yeah. Yeah.

4 So, what is the caseload for inspectors --

5 A I understand --

6 Q -- in 2014?

7 A I understand the caseload for inspectors to be just under
8 that 18 mark.

9 Q For inspectors?

10 A For inspectors, it's not 18. It's less.

11 Q And for investigators what is it?

12 A For investigators, it's around 18 or 19.

13 Q And for inspectors what is it?

14 A For inspectors it's less than that.

15 Q Like what is it?

16 A I can't recall the number right off hand, but I think for
17 fiscal year 14 it may have been in the range of about 16.

18 Q Okay.

19 A I'm sorry, I can't recall that right now.

20 Q So you had a document that you guys created about nine
21 months ago and you said "in fiscal year 2013 the blended
22 average caseload for inspectors and investigators was 9.2,"
23 right?

24 A That's the number that was, you know, presented --

25 Q That's what's in your document and that's what you're

1 saying?

2 A -- on the dashboard that we used.

3 Q Okay. And now you're saying in 2014 the inspector
4 caseload is 18 and the -- I'm sorry, the investigator caseload
5 is 18 and the inspector caseload is 16?

6 A For FY14.

7 Q How in the world do you get a combined caseload of nine
8 unless the caseloads went up?

9 A I apologize. I didn't crunch those numbers, so I cannot
10 answer that question for you.

11 **THE COURT:** You're not still doing taxes are you?

12 **THE WITNESS:** No.

13 **(Laughter)**

14 No, I do not.

15 **BY MR. YETTER:**

16 Q Okay. So the fact is that the number of the caseworkers,
17 whether they were investigators or inspectors, in the last two
18 years has gone down, down, down, hasn't it?

19 A I'm sorry, could you repeat that comment?

20 Q Sure. The fact is that the number of investigators and
21 inspectors, together, at the Residential Licensing group has
22 gone down in the last several years, hasn't it?

23 A The number of staff that we have has decreased.

24 Q Yes. So, in fiscal year 2011, the total RCCL caseworkers,
25 that's inspectors and investigators, according to -- I'm going

1 to put Plaintiffs' Exhibit 641, which is, again, in evidence on
2 the short list not objected to.

3 **THE COURT:** Number what?

4 **MR. YETTER:** 641; Plaintiffs' 641.

5 **THE COURT:** Thank you.

6 **BY MR. YETTER:**

7 Q Now let's go to the top in the middle if we could. And,
8 Mr. Morris, just to familiarize yourself, you know what the
9 dashboards are, the DFPS monthly dashboards?

10 A This is an old version of the dashboard that we no longer
11 use, yes.

12 Q Okay. Fair enough. But this is as of June 30, 2013.
13 That's the report that you got, right? You recognize the
14 document, don't you?

15 A I do recognize the document, yes, sir.

16 Q Okay. Let's go to the -- it's a spreadsheet, is it not?

17 A Yes, it is.

18 Q Okay. Let's go to the bottom left-hand corner for the --
19 Line 73, if you can find that. Line 73. I think you're going
20 down a little too far. It's on the first page of the
21 spreadsheet.

22 A Right there.

23 Q It is under Child Care Licensing -- RCCL. Right there
24 that is. That's it. Can you highlight that line? Can you
25 highlight that? Got it. Okay. Do you see that line?

1 A I do.

2 Q Average monthly filled RCCL caseworker FTE. So just to
3 put that in English, that is full time equivalent, people
4 actually filled the -- there's not a vacancy -- of the number
5 of caseworkers. So that means investigators and inspectors,
6 true?

7 A That is correct. Would you --

8 Q RCCL is that group that we've been talking about, the
9 Licensing group, right?

10 A That is correct. Would you please show the header for me
11 so that I can see that line up to the years?

12 Q Header?

13 A Is there any way to split the screen for us?

14 Q Sure. Which header are you interested in looking at?

15 A If you'll go to the top of the document so that we can see
16 FY11, FY12; changed it from 12 to 13 and FY13 target?

17 Q Yeah. So let's highlight -- woops, go back up again.
18 Let's highlight 11 and 12; those two boxes if you can do that.
19 There you go. Okay. So we're on 11 and 12. Let's go down
20 back -- woops, wait a minute.

21 A Oh.

22 Q There you go. So, for fiscal year 2011, in your group,
23 total investigators and inspectors 123.4. That's full time
24 equivalent, so there's actually someone that's a .4 in there
25 that's working part time or something like that, right?

1 A I'm not sure where the .4 comes from.

2 Q But that's -- I'm reading the number right?

3 A 123 roughly.

4 Q So 123.4 is for 2011, right?

5 A Correct.

6 Q 116.5 is for 2012, true?

7 A That's the number right there in the column, yes it is.

8 Q That's for fiscal year 2012.

9 Now let's go forward. Let's go to Plaintiffs'

10 Exhibit 640, which is the next spreadsheet. It's the same

11 spreadsheet, monthly dashboard, same calculation. Let's start

12 at the bottom under Residential Child Care.

13 **MR. ALBRIGHT:** What line?

14 **MR. YETTER:** It's on Page 1, Child Care Licensing -
15 Residential.

16 **MR. ALBRIGHT:** Does it have a line number?

17 **BY MR. YETTER:**

18 Q The Line Number is 73, again.

19 A Thank you. And if you could split that screen at Line
20 Number 71 so the header can remain at the top that would
21 helpful.

22 Q Okay. We will try to do that. Okay.

23 A Actually, it's already done, so I think we're good there.

24 Q There you go. He got it.

25 A Thank you.

1 Q There you go. All right.

2 So we just saw fiscal year 2012 was 116.5. Do you see
3 that again?

4 A I do.

5 Q Okay. Now we're going forward to bring it to today; at
6 least as close to today as what you've all given us. And as of
7 July of 2014 -- do you see the number on the -- and I think we
8 can keep going to the right a little bit more. Can you scroll
9 to the right? There you go. Keep scrolling to the right.
10 Okay. There.

11 So the last column is actually March of 2014. Because
12 your fiscal year is not a calendar year, it kind of is a little
13 big juggled. So the last column that you guys gave us on this
14 chart is March of this year, 2014. And how many filled
15 inspector, investigator, caseworkers did you have in your
16 group?

17 A March 2014? That says 88.5, but I don't think that number
18 is correct, sir.

19 Q So this is another mistake in a DFPS document?

20 A This is on a dashboard that I don't use, sir.

21 Q And that number --

22 A Would you mind going back to the left for me for just a
23 moment please?

24 Q Sure, I'm happy to go all the way to the left. Average
25 monthly filled RCCL caseworker FTE.

1 A Great. Would you mind going down to Footnote 6 for me for
2 just a moment, sir? For filled caseworker FTE, it measures
3 FY12 target as the agency cap affordable number of FTE's.

4 Okay. That helps me out. Thank you.

5 Q Okay. Well, that's Greek to me.

6 A That didn't answer my question on why we have 88.

7 Q But what does that tell you, Mr. Morris?

8 A So there is a certain cap number of FTE's that are
9 authorized for the agency to have hired in the overall grand
10 scheme of things, and that would be the target that we're
11 shooting for.

12 Q Okay. Bottom line is as of March of 2014, you were down
13 to 88.5 full time investigators and inspectors, right?

14 A Okay.

15 Q Okay. So you have the sharp increase in children and you
16 have a steadily dropping load of investigators and inspectors
17 and they've got this really important job to investigate
18 allegations of physical, sexual abuse and neglect, true?

19 A True.

20 Q And they have to make correct decisions; otherwise,
21 victims can be subject to continued risk and perpetrators could
22 be given more opportunities to cause harm, right?

23 A Yes, that's --

24 Q Now, you looked earlier this year -- in 2014, your group
25 looked at how accurate the investigations are being done in the

1 DFPS Licensing area, didn't you?

2 A Jean Shaw asked for that report, yes.

3 Q She is your direct report, isn't she?

4 A She is indeed.

5 Q And she told you-all about it didn't she?

6 A When the results came back, Jean and I discussed it, yes.

7 Q She was probably very concerned because the results were
8 not good were they?

9 A No, they were not.

10 Q So here we are. Let's go to Plaintiffs' Exhibit 1129. If
11 you can blow up the top. This is -- at the outset of your
12 testimony, I mentioned that you have a group called the
13 Performance Management Unit. That's kind of like the Quality
14 Assurance Group?

15 A That's exactly what it is, a quality assurance function.

16 Q Okay. And in Child Care Licensing, that's your group; so,
17 Residential Child Care Licensing would be RCCL. And here's a
18 report to the Residential Child Care management. That would be
19 you and Ms. Shaw, true?

20 A She is a direct report to me and part of my management
21 team, yes, sir.

22 Q Okay. So here it is, residential care physical abuse
23 investigations, focus: unable to determine dispositions. So
24 let's just get a framework here for the Court. This is not
25 sexual abuse investigations. This is not neglect

1 investigations. This is physical abuse neglect investigations,
2 right. So that subset, true?

3 A Yes.

4 Q And this is not findings of ruled out or reason to
5 believe. This is the findings of I just have no idea, unable
6 to determine? True?

7 A These are unable to determine, yes.

8 Q And so they decided -- your Quality Assurance Group said
9 okay, let's see how accurate those findings are, didn't they?

10 A That is what Ms. Shaw asked them to look at, yes.

11 Q And let's go to Page 2. And the top paragraph, let's just
12 blow that up on background. A request was made by the
13 leadership -- that would be your calling Ms. Shaw -- to explore
14 whether RC, Residential Child Care, investigators made the
15 correct findings of unable to determine dispositions for
16 physical abuse. And so you used acronyms. Unable to determine
17 is UTD. Physical abuse is PHAB, physical abuse investigations
18 initiated during a 12 month period. So you took a year.
19 Physical abuse and I don't know -- the finding was I don't
20 know. True?

21 A That is correct.

22 Q And the next paragraph. Again, to make that finding, you
23 have to basically -- the investigator and the supervisor has to
24 say I just can't -- there's not enough available information to
25 make the decision one way or the other, true?

1 A Correct.

2 Q Right. Let's go to the next paragraph. Okay. So in that
3 small subset -- and there are hundreds of investigations that
4 your group does every year, aren't there?

5 A Yes.

6 Q Physical, sexual abuse, neglect?

7 A There are 3,000 investigations that we'll do a year,
8 between --

9 Q Three thousand?

10 A -- abuse and non-abuse neglect-type --

11 Q Okay.

12 A -- investigations.

13 Q So here, they took one that they wanted to kind of take
14 like a sample in order to give you reliable information. And
15 so this sample was from one year, one fiscal year, August 1,
16 2012 to July 31, 2013. And they had 85 investigations alleging
17 physical abuse at a Child Placing Agency. That means it's
18 outsourced, right. That's one of the private company
19 providers, true?

20 A Child Placing Agency is -- yes, it is the -- it is an
21 organization that works with foster homes. There are some that
22 we contract with and some that we don't contract with within
23 the agency. So when you say "outsource," I just want to be
24 accurate.

25 Q Okay. So those are the ones that have foster children,

1 including PMC children, true?

2 A Yes, I believe they do, yes.

3 Q And General Residential Operations, those are the bigger
4 ones, the institutions, true?

5 A Yes, more than 12; that's correct.

6 Q With a disposition of either reason to believe or unable
7 to determine, of those 85 investigations, 48 received a
8 disposition of unable to determine. And so that's what they
9 looked at. So they took a sample of all of your investigations
10 to see how accurate they were. Correct? So it came down to 48
11 cases and they did them one by one, didn't they?

12 A Correct.

13 Q So let's go to the quick overview on the next, Page 3.
14 They found that the high majority of these investigations were
15 wrong, didn't they?

16 A Incorrect. They determined as UTD; that's correct.

17 Q Okay. That's a bad thing, isn't it?

18 A That's not a good thing, no, sir. It's a bad thing.

19 Q So, quick overview --

20 A Something we need to correct.

21 Q Bullet one. Quick overview. Thirty-one out of 48,
22 64 percent, of the reviewed physical abuse allegations were
23 incorrectly determined as UTD, right?

24 A That's correct, yes.

25 Q Now, that means they should have -- if they had been done

1 right, they would have found that there was actually a reason
2 to believe. In other words, that the physical abuse actually
3 had happened, or rule it out and exonerate people where it
4 didn't happen, correct?

5 A Correct.

6 Q Either mistake is a bad mistake, isn't it?

7 A Either is a mistake that you don't want to make. You want
8 to get it right. Yes, sir.

9 Q Okay. So for this sample that you guys took, it was a
10 high percentage. The next sentence says you're going to
11 analyze why there was such a high percentage of incorrect UTD
12 findings, right?

13 A That's correct.

14 Q Now, a bigger problem is that this is not just an
15 investigator's issue, because you have an investigator
16 caseworker, and he makes the initial decision, but then the
17 supervisor has to sign off on it, doesn't he/she?

18 A That is correct.

19 Q And so this is two people in the system, the caseworker
20 and the supervisor, coming out wrong 64 percent of the time,
21 right?

22 A For this sample, that is correct, yes, sir.

23 Q Okay. And samples tell you a lot about the whole
24 population, or they can't they?

25 A That is very possible that they -- if they've been

1 selected correctly, yes, they can.

2 Q Okay. So, you have -- I'm not going to go through all of
3 these for the Court. The Court will have this document to
4 review. But basically they went through all of these and they
5 found -- let's go down to the sixth bullet down -- 11 of the 31
6 incorrect findings should have been reason to believe, right?

7 A Correct.

8 Q That's 35 percent of the incorrect findings should have
9 been reason to believe. That means there was a preponderance
10 of the evidence that indicated that physical abuse occurred,
11 right?

12 A Correct.

13 Q Now, this sample was done long after the fact, wasn't it?

14 A About a year after the --

15 Q I say "long." It was done after the fact, wasn't it?

16 A I believe it was about a year after the fact.

17 Q Okay. So, investigations have to be timely, don't they;
18 right?

19 A Yes, they do.

20 Q Because if you have physical abuse happening in a home to
21 a child that's under the legal custody of the State of Texas
22 and you don't figure out for a year whether that physical abuse
23 happened, that child has 12 months of being at risk, doesn't he
24 or she?

25 A Correct.

1 Q True?

2 A Yes.

3 Q So here we are a year later and 11 out of the 31 incorrect
4 ones should have been a reason to believe. Now, not quite as
5 bad, but just as bad, nine of the 31 should have been ruled
6 out. So someone should have been able to say, okay, there
7 wasn't a problem here. There wouldn't have been any suspicion
8 hanging over there head. And the other 11, the caseworker and
9 the supervisor, it was determined that they didn't have enough
10 information to say what they did to make the unable to
11 determine finding, and they should have gone and looked for
12 more information, right?

13 A Correct.

14 Q Now, let's go to the next bullet. Of the unable to
15 determines, 75 percent involved an injury, an actual injury,
16 right; 36 out of 48, true?

17 A That's correct, yes.

18 Q Seventeen of the 48, 35 percent, actually involved an
19 injury that required medical attention; two of which were
20 critical, 19 of which were serious. True?

21 A That's correct, yes.

22 Q All right. So when you read this you must have said wow,
23 this is a stunningly bad finding that we just made, true?

24 A Yes, it concerned me.

25 Q And this was a year ago, because you got this in January

1 2014, didn't you?

2 A Yes. It's dated January 2014, and so I believe we
3 received it sometime around that time.

4 Q Sure.

5 A In fact, I want to say it was January 21st, if I'm not
6 mistaken.

7 Q All right. So the second to the last bullet says "almost
8 all of these unable to determine findings were discussed with a
9 superior." And yet two-thirds of them were not correctly
10 approved, right. Some of the things -- the most significant
11 explanations were: the evidence they found was not enough to
12 be a preponderance, all the parties were not interviewed, not
13 all the evidence was gathered or reached. Right?

14 A Correct.

15 Q Okay. So this is what the PMU unit sent to you and you
16 said, wow, that's really bad. And, in fact, your colleague,
17 Ms. Shaw, said I'm going to check it myself, didn't she?

18 A Yes.

19 Q And she found it was worse then what even PMU had said,
20 didn't she?

21 A I would have to look and see what the number was that she
22 determined. When she say "she found it was worse," I don't
23 recall that she found it was worse. Can you show me what
24 you're referring to?

25 Q Happy to. Plaintiffs' Exhibit 1065. I'm going to remind

1 you of this, because she made a PowerPoint for you. She made
2 you a report, a slide deck, didn't she?

3 (No audible response)

4 Well, let's do the whole thing first. Let's do the big
5 page. You recognize this, do you not?

6 A Yes. This is the summer after Ms. Shaw's read-behind of
7 the cases.

8 Q Okay.

9 A And this is actually a read-behind of the cases after they
10 had been read-behind again.

11 Q Okay. This was such a significant finding by your PMU
12 unit, this sample that showed that 64 percent of their findings
13 were false, incorrect, you actually did a second review by
14 other employees, didn't you?

15 A That is correct, we did.

16 Q And then a third review by your Director?

17 A Ms. Shaw.

18 Q Ms. Shaw. True?

19 A True.

20 Q And every one of them verified that it was as bad or worse
21 than what you initially thought, didn't they?

22 A Well, let me just take a look at this.

23 Q I can go through the numbers if you'd like. I'll walk you
24 through it.

25 A I think we should when you want to say "bad or worse," so

1 I want you to explain that if you would please.

2 Q I will. Okay. So let's look at the first page. PHAD.

3 **THE COURT:** Well, did any of them say it wasn't as
4 bad as it looked?

5 **THE WITNESS:** No. I don't know. I don't believe
6 anyone said that it wasn't as bad as it looked. I believe we
7 said, you know, we have an issue that we need to address here,
8 and so we did.

9 **BY MR. YETTER:**

10 Q Okay. First slide is PHAD. That's physical abuse. And
11 then she has a chart. And so let's just kind of, so the Judge
12 understands what the chart is, you have the first column that
13 says "reader," and you had three people doing this. You had
14 your PMU team, which was that report that we just went over,
15 true?

16 A Yes.

17 Q And then you had a second read, which was within your
18 group, right? I think they were people that reported to
19 Ms. Shaw.

20 A They were actually individuals who were part of -- yes --
21 or, risk analysts, I believe; part of PMU.

22 Q Different group then did the first one?

23 A Correct, it was a different group.

24 Q And that's why they called it second read?

25 A Yes.

1 Q And then Ms. Shaw actually did it herself; it was that
2 serious?

3 A Yes.

4 Q Okay. So that's who the reader is.

5 And then you have -- so these were only that subset of
6 unable to determine. So you wanted to find out -- each of
7 these people -- each of these reviews was to find out was that
8 a correct finding or was it wrong and how was it wrong. So you
9 have four columns. So the middle column, UTD, is the column
10 that says it was actually correct the time they did it, isn't
11 it?

12 A So, I would -- this is the way I understand these numbers,
13 and I'm going to explain them if I may. The PMU team read
14 them. Of those cases, the 48 UTD cases, 11 should have been
15 RTB, 17 should have been UTD, 11 ruled out, and nine rejected.
16 There is --

17 Q Okay. Let me -- I don't mean to stop you, but let me -- I
18 want to kind of take this a piece at a time. So when the PMU
19 team did it, they found that 17 of these findings were actually
20 okay, that they were correct. And so that's that third column
21 that says UTD. Seventeen of the 48 were okay, were correct,
22 were accurate, were reliable. True?

23 A Yes.

24 Q Okay. But then they found that 31 of the 48 were wrong.
25 And that 31 is made up of 11 that should have been reason to

1 believe, 11 that should have been ruled out, and nine, which
2 they call reject, which means you didn't have enough
3 information to make a UTD finding. True?

4 A True.

5 Q Okay. That's the PMU.

6 A More work was needed to be done.

7 Q Okay. That's the PMU.

8 Now, the next line is the second read and then the third
9 line is what Ms. Shaw said. And let's just add up first to see
10 what happens.

11 So, the second line on the second read, they actually said
12 under the UTD column that only nine were correct. True?

13 A They said only nine correct, but they said only four of
14 those should have been RTB's.

15 Q You know, --

16 A They said --

17 Q -- a bad investigation is a bad investigation, right?

18 A Well, you can say --

19 Q It's either right or wrong.

20 A -- a bad investigation is a bad investigation, but if you
21 told me that, you know, 11 of those should have been RTB's, and
22 then the person I rely on says, you know what, only four of
23 those should have been UTD's. Actually, for the additional 20,
24 we needed to do more work, we need to train up our supervisors
25 and inspectors. So, yes, it's bad that they aren't correct,

1 but --

2 Q So you just got lucky in that they were incorrect in one
3 way versus the other?

4 A Uh.

5 Q But what you have here on your second read is your second
6 read actually found that more of them were wrong, and then your
7 Director actually found that 11 were correct and 33 were wrong.
8 You know what that statistic is; you know what that percentage
9 of wrong findings is?

10 A Yeah. Twenty-two out of 33 were wrong; is that what you -
11 -

12 Q No, no. Thirty-three out of the 48 were wrong. I'm
13 sorry. Thirty-seven out of the 48 were wrong; 75 percent.
14 It's just -- that's just terrible. That's terrible accuracy,
15 isn't it?

16 A It needed to be addressed, yes.

17 Q And it can be wrong one --

18 **THE COURT:** Forty-eight were read the first time and
19 then how many were read the second and third time?

20 **MR. YETTER:** Forty-eight. The same -- or, I'm sorry.
21 They went down to 44 --

22 **THE COURT:** Forty-four for second and third?

23 **MR. YETTER:** Yes. Forty-four for the second and
24 third.

25 //

1 **BY MR. YETTER:**

2 Q So, the Director found that 33 of the 44 were wrong, and
3 that's 75 percent, right?

4 A Okay. I'm not doing the math in my head, --

5 Q Are my figures right?

6 A -- but if you calculate it then I'm going to rely on you.

7 Q Okay. Well, let's just take the time. Add up the number
8 that the Director counted, and that's 44.

9 A Okay.

10 Q And she counted only 11 were correct. So she counted 33
11 wrong.

12 A Seventy-five percent were --

13 Q Thirty-three of 44 is 75 percent right on the nose.

14 A There you go.

15 Q Okay. So you go through the rest of these, and you got to
16 the next page, physical abuse, and that's a chart. She shows
17 her opinion of what's right and wrong. So, you know, ideally,
18 you have a very high accuracy of your investigative reports,
19 don't you?

20 A That's --

21 Q I mean, that's what you're supposed to have, isn't it?

22 A You should strive for a very accuracy rate, yes.

23 Q It should all be the same color; the color that they came
24 up with, UTD, right?

25 A You want it to be correct.

1 Q Now, the second read and the third read actually went on
2 to other things. So, slide three is negligent supervision.
3 You guys were so concerned about how inaccurate these were, you
4 started looking at other case files, didn't you?

5 A That's correct. We wanted to know about these as well.

6 Q Negligent supervision. You looked at 38 cases of
7 negligent supervision, right, that were found to be UTD. True?

8 A Correct.

9 Q And your Director found that 31 of the 38 were wrong.
10 True?

11 A Uh.

12 Q She only found seven were right. So she found 31 of the
13 38 were wrong.

14 A Seventeen should have been ruled out, two should have been
15 RTB's, and 12 should have been rejected for additional work;
16 that's correct.

17 Q So, one child --

18 A So when you say "wrong," --

19 Q One child that's subject -- when you do an investigation
20 that's wrong, and actually the negligent supervision or
21 physical abuse happened and that child stays in that setting
22 for one day too long, that's bad isn't it?

23 A You want this to be correct.

24 Q Do you know what the statistic is on the wrong ones for
25 negligent supervision, according to your Director, Ms. Shaw?

1 81.6 percent wrong. Do you know that?

2 A Yes.

3 Q Okay. Let's go forward. They did some more. So, slide
4 four is her chart. And slide five, they decided to look at 29
5 cases of incidents of sexual abuse, did they not?

6 A Yes.

7 Q And of those 29 cases, both the second read and your
8 Director found that nine were correct and 20 were wrong.
9 Sexual abuse.

10 A Two should have been RTB, 10 should have been ruled out;
11 they should have been rejected.

12 Q So, of the rejected, you don't know whether those should
13 be reason to believe or ruled out, by the way, do you?

14 A Without doing additional work. At the time of the
15 investigation, --

16 Q Right.

17 A -- additional work needed to be done.

18 Q So that's a terrible result isn't it? That's 69 --
19 actually, 68.97 percent wrong.

20 A It needs to be better and we addressed it.

21 Q Let's go to the next page. This is the total of all
22 findings; physical abuse, negligent supervision, sexual abuse.
23 111 cases that they looked at. That's a big sample. Read them
24 one by one. They found that 84 -- at least your Director found
25 that 84 of the 111 were incorrect, didn't she?

1 A Forty should have been ruled out, 36 should have been
2 rejected, and eight should have been RTB's of the findings,
3 yes.

4 Q Okay.

5 **THE COURT:** I'm sorry. Did she find that they were
6 incorrect, eighty-something out of 111?

7 **MR. YETTER:** Eighty-four out of 111.

8 **THE WITNESS:** Eighty-four out of 111 is, what, close
9 to 86-85 percent; is that right?

10 **BY MR. YETTER:**

11 Q 75.7 percent --

12 A I'm sorry. Thank you.

13 Q -- wrong. True?

14 A Not accurate.

15 Q Okay. So she did this sometime shortly after January of
16 2014, didn't she?

17 A Yes.

18 Q Have you done a broader study now; have you commissioned a
19 broader study, because you just got a sample of 111 instances,
20 75 percent of which were wrong? Have you commissioned a broad
21 study of the investigative results in your department to
22 determine if this astounding inaccuracy is endemic in your
23 group?

24 A We have asked for additional work to be done. And one of
25 the things, if you'll --

1 Q Let me stop you there. When is it going to be done? It's
2 now December and this was January.

3 A Right.

4 Q Has it been done?

5 A Follow-up report -- or, follow-up reviews of cases were
6 being conducted and they're almost complete.

7 Q How many cases are we talking about?

8 A I want to say they looked at a sample of 66, if I'm not
9 mistaken.

10 **THE COURT:** Sixty-six?

11 **MR. YETTER:** Sixty-six? You did 111 and you got a
12 75 percent inaccuracy rate.

13 **THE COURT:** Well, how many of those little samples do
14 you have to do before you institute some institutional changes?

15 **THE WITNESS:** Well, and that's exactly what we did,
16 your Honor.

17 **THE COURT:** Well, why do another study; why do you --
18 what changes have you done?

19 **THE WITNESS:** Well, we took steps to address this
20 issue and then we --

21 **THE COURT:** What steps; what have you done?

22 **THE WITNESS:** Okay. I don't know if you have the
23 exhibit of the memo that was written for me as a plan to move
24 forward. And so one of the first things that we did was bring
25 in all of the supervisors.

1 **THE COURT:** When?

2 **THE WITNESS:** I want to say it was the end of March;
3 March 30th I believe, if I'm not mistaken, of 2014. I'd have
4 to go back and see the date. But that was one of the things we
5 did. And we went over the seriousness of the cases and we made
6 sure that all the supervisors understood that the accuracy
7 needs to increase, and they need to be very diligent in looking
8 at the work and not simply --

9 **THE COURT:** Well, what did you do about those
10 licenses for those places where the abuse was occurring, that
11 you had missed a year earlier?

12 **THE WITNESS:** For all the cases where the UTD was
13 incorrectly found, we actually went out to every one of those
14 and we noted no findings of abuse, no other outcries from
15 children, as I understand it.

16 **THE COURT:** So you just didn't do anything different
17 with --

18 **THE WITNESS:** We went back out, yes, ma'am.

19 **THE COURT:** You didn't change the licenses or do
20 anything about the placement of the children, or recommend to
21 the placement part that they be placed someplace else after the
22 abuse was confirmed?

23 **THE WITNESS:** As I understand it, the ones that
24 should have been RTB, those cases should have been reopened,
25 and I believe they were actually reopened. I'll have to double

1 check and see if that was done.

2 **THE COURT:** Okay.

3 **THE WITNESS:** But the licenses were not revoked for
4 the facilities or the homes where those occurred.

5 **THE COURT:** Okay. And I understand, since you don't
6 track at all abuse of children on children, we're just talking
7 about of children by adults --

8 **MR. YETTER:** Correct, your Honor.

9 **THE COURT:** -- in these homes; is that right?

10 **MR. YETTER:** Correct.

11 **THE WITNESS:** I'm not sure if it was all adult on
12 child. I'm not sure if it was child on child.

13 **THE COURT:** Well, there's --

14 **MR. YETTER:** Well, some of them could be -- your
15 Honor, negligent supervision could be a Child Placing Agency
16 that improperly supervised children and there was a child on
17 child. That's the only way it would come up.

18 **THE COURT:** Okay.

19 **MR. YETTER:** The others would have been by adults;
20 physical abuse and sexual abuse.

21 **THE COURT:** Do you know what they were?

22 **THE WITNESS:** I don't have the number of what they
23 were, but my understanding was that they could have been -- no,
24 ma'am. Your Honor, no, I don't know what they were.

25 **THE COURT:** Okay.

1 **THE WITNESS:** I'm sorry.

2 **THE COURT:** Now, I understood you to say, and correct
3 me if I misunderstood this, that you sent people back out to
4 those facilities, where the abuse was then confirmed, or had
5 been confirmed by your readers, and found no further abuse; is
6 that right ?

7 **THE WITNESS:** Correct.

8 **THE COURT:** So, nothing changed as a result of you
9 being put on notice that a year later you found out the
10 children were actually abused as reported?

11 **THE WITNESS:** If there were no further outcries and
12 there is no indication of --

13 **THE COURT:** No further outcries?

14 **THE WITNESS:** If there are no further outcries and no
15 other intakes --

16 **THE COURT:** Who on earth is going to make an outcry
17 if you've done nothing for a year?

18 **MR. YETTER:** So, just to make --

19 **THE COURT:** You expect them to keep complaining?

20 **(No audible response)**

21 Oh my goodness. I think we've just got to take an
22 afternoon break.

23 **THE MARSHAL:** All rise.

24 **(Recess taken from 3:20 to 3:43 p.m.)**

25 //

1 **THE CLERK:** All rise.

2 **(Pause)**

3 **THE COURT:** You can take the stand again please, sir.

4 **(Pause)**

5 Go ahead.

6 **DIRECT EXAMINATION (CONTINUED)**

7 **BY MR. YETTER:**

8 Q Just to finish up this topic that we were just on before
9 the break, Mr. Morris. The UTD cases that you found were
10 actually incorrect 75 percent of the time, and the eight among
11 those that were found to actually have sexual abuse, physical
12 abuse, or negligent supervision to have occurred; coming out of
13 that, no licenses for any of these child placement facilities
14 or agencies were suspended were they?

15 A No licenses were suspended, but we did reply; we did
16 respond to the things that we found.

17 Q None were revoked?

18 A None were revoked.

19 Q No penalties were established on any of these facilities
20 or --

21 A No.

22 Q -- the Child Placing Agencies?

23 A No penalties were established that I recall.

24 Q These same agencies are taking children today, despite the
25 findings of eight substantiated cases of physical, sexual

1 abuse, and negligent supervision?

2 A Yes.

3 Q The same children that were there, that were subject to
4 this abuse, are still in the same facilities, unless you've
5 moved them?

6 A I believe one may have shut down.

7 Q In fact, the facility shut down altogether?

8 A I would have to double check that, but I think that's what
9 I recall is one facility shut down. But no, we did not revoke
10 any licenses.

11 Q But the State didn't move any of the children either, did
12 they?

13 A No.

14 Q And, what you're telling us is you're doing some other
15 little study of 69 cases?

16 **THE COURT:** The way I get it, the response to the
17 first two samplings, instead of saying we've got an
18 institutional crisis here, let's do something; they wanted to
19 do another sampling just in case they could up the -- make it
20 look better.

21 **MR. YETTER:** So the reality is you do --

22 **THE COURT:** So that's what has been done.

23 **MR. YETTER:** You had thousands of them --

24 **THE COURT:** Mr. Albright will straighten it out,
25 but --

1 **THE WITNESS:** There are some additional steps that we
2 took, your Honor.

3 **MR. YETTER:** You do thousands --

4 **THE COURT:** Well, you didn't tell me about them when
5 I asked you.

6 **THE WITNESS:** No, ma'am, I didn't.

7 **THE COURT:** Why is that?

8 **THE WITNESS:** Well, I --

9 **THE COURT:** You're just finding out some more things
10 over the break?

11 **THE WITNESS:** No, ma'am. I didn't know if I was
12 supposed to speak up at that time to carry on and give you the
13 rest of the steps that we did. But there was a pretty robust
14 response to the things that we did after we determined these
15 cases.

16 **BY MR. YETTER:**

17 Q Robust?

18 A Yes.

19 Q You literally make thousands of investigative findings
20 ever year, don't you?

21 A Yes.

22 Q And you did this survey and you found that 75 percent of
23 this group was wrong. True?

24 A Correct.

25 Q And none of the agencies involved were penalized in the

1 slightest, were they?

2 A That's correct.

3 Q And so now you're telling us you had a robust response?

4 **THE COURT:** And none of the children were moved.

5 Q And none of the children were moved?

6 A Correct. None of the children were moved.

7 Q And children don't -- they don't complain if nobody
8 listens to them, do they?

9 A You're saying that children don't complain if no one
10 listens to them. I would say children still complain, so that
11 someone does listen to them. I can't say that 100 percent of
12 the time the children won't complain if they think no one
13 listens.

14 Q So you have the -- wouldn't you agree, Mr. Morris, that
15 this had to shake your confidence in literally thousands of
16 investigative findings a year. True?

17 A It was a cause of concern for me to take additional steps
18 that we did, in fact, take.

19 Q And so now you're going to do another little survey?

20 A There was additional work in that. No. I think that
21 you --

22 Q Hoping it comes out better?

23 A That's incorrect.

24 Q Okay.

25 A That's not just what we did.

1 Q Now, you have -- have you -- as far as I know, you haven't
2 sent in any sort of request to revamp your agency have you; how
3 you do investigations?

4 A As in rebuilding the Child Care Licensing or RCC?

5 Q Absolutely.

6 A No, we have not done a transformative --

7 Q Because this survey --

8 A -- repair, like transformation.

9 Q This survey could be the tip of the iceberg and you're not
10 even looking underneath the surface of the water.

11 A In fact, we have looked further.

12 Q What are you doing, other than this new little survey of
13 69 cases?

14 A When the results of the report came out, we actually went
15 out to every single one of the homes. For the 11 that the PMU
16 unit identified should have been RTB, we went out to every
17 single one to determine if there were any children at risk.
18 There weren't.

19 As the remainder of the readings, or the re-reads, were
20 done, we went out and did follow-ups at every one of those
21 facilities as well that were still open. And every one of
22 those, it was more than just walking in and saying hello. We
23 went in and did inspections. We put eyes on the children. We
24 made sure that the ratio was correct. We basically did a full
25 inspection of the facility.

1 In addition, we spoke with -- our staff in PMU had a sit
2 down and said, you know what PMU field, we need to look for any
3 sort of trends with any of the providers. No trends were
4 identified for us.

5 Earlier, I referred to a mandatory all-hands meeting that
6 I called on March 31st, I believe it was, -- March 30th or
7 March 31st -- for all of the supervisors within Child Care
8 Licensing to explain to them the very high standard that we
9 have for investigations in Child Care Licensing. And I made
10 the expectation very clear the work has to be better, we're
11 going to help you get better, and you're going to get better.

12 We also hired additional staff within our state office.
13 We hired two. We call them a Program Specialist VI, but it's a
14 higher level staff member that works -- they both work directly
15 for Jean Shaw, giving her additional staff so that we can focus
16 on things like professional development, additional training,
17 working with staff to identify any trends, child safety issues;
18 all of it related to.

19 Q Is that it? Is that the robust response that you had?

20 A That was a lot. In addition to that, we put in our
21 exceptional item and asked for 20 more investigators, 20 more
22 inspectors, and the support staff for all of those positions as
23 well.

24 Q So let me just make sure we're all clear. This wasn't
25 just your decision. You took it up the chain, didn't you?

1 A Yes, we did. It was the decision then that I went to
2 Commissioner Specia.

3 Q You took it -- you made a presentation in August of 2014,
4 four months ago, to the Commissioner and others about what to
5 do, didn't you?

6 A A presentation in August? I would want to go back and
7 look at the date on that memo. I believe it was sooner than
8 August of 2014.

9 THE COURT: What was the date on the -- when you went
10 to ask for more inspectors because of the --

11 MR. YETTER: That was --

12 THE COURT: Was that connected to this at all?

13 MR. YETTER: No.

14 THE WITNESS: No.

15 BY MR. YETTER:

16 Q That was because they had all the undocumented children
17 that were coming over.

18 A Well, that's one reason we asked for it. But, you know,
19 we asked for additional staff so that our licensing staff could
20 do more work related to safety of kids in care. So, about the
21 time the exceptional item was first drafted and due to finance
22 on March 7th, also we were in the middle of doing the work to
23 determine the safety of the kids for those that were determined
24 they should have been RTB's rather than UTD's.

25 Q Okay. The Judge asked a very good question, and I would

1 like to go back to Plaintiffs' 898. Okay. Here we are in
2 March. You've now learned that you have 75 percent inaccuracy
3 rate from this sample. This is on March 7th, 2014. Now, this
4 is a request for exceptional item funding worksheet. You
5 remember that, don't you?

6 A Yes.

7 Q Okay. Let's go to the next page. And this is the one
8 that you said has all the inaccuracies in that first paragraph
9 about the 96 percent increase. But number one says:

10 "...an increase in the number of serious incidents in
11 Residential Child Care Operations, which has resulted
12 in an increase in investigations for both inspectors
13 and investigators."

14 Do you see that?

15 A Yes, I do.

16 Q Now, are you talking about what you found because all of
17 these findings were inaccurate? That's the increase. You have
18 these 11 cases that should have been ruled reason to believe,
19 and that's the serious incidents in Residential Child Care
20 Operations? That's what you're talking about?

21 A That was part of them, and there were other incidents as
22 well.

23 Q Okay. Now, the fact is you never have sent this proposal
24 in have you?

25 A You're saying I have never sent this proposal in to who?

1 Q Yes.

2 **THE COURT:** Well, you said you were revising it.

3 **MR. YETTER:** Correct.

4 **THE WITNESS:** This proposal has been submitted to our
5 Finance Division and it's actually one of the exceptional items
6 that has moved forward and it won't go until the legislative
7 session.

8 **BY MR. YETTER:**

9 Q In your deposition you said you were "not aware if the
10 funding request had been distributed outside of DFPS."

11 A That's correct.

12 Q So it has never gone to anybody, except internally?

13 A And it is included as part of the exceptional on the list
14 that will move forward into the upcoming legislative session.

15 **THE COURT:** Okay. But the point is that hadn't been
16 presented to anybody outside the department?

17 **THE WITNESS:** Correct. This was an error. This was
18 an inaccuracy and I took full accountability for that, but --

19 **THE COURT:** Well, but that was March.

20 **THE WITNESS:** -- it stays with internal to the --

21 **THE COURT:** That was March. And you said you had all
22 these problems with the investigations, and you still haven't
23 asked for any help from the legislature.

24 //

25 //

1 **BY MR. YETTER:**

2 Q I mean, we're eight months away from March; no, nine
3 months away from March and you've had -- there have been no
4 extra people, no nothing, right?

5 A That's correct.

6 Q And the children are still in the same places, unless
7 somehow the facility is shut down. True?

8 A Correct.

9 Q And nobody has been fined or penalized at all?

10 A That's correct.

11 Q True. But that's your robust response. And this was
12 approved at the highest levels of DFPS, wasn't it?

13 A Yes, it was.

14 Q In fact, you even had your lawyers involved in that
15 meeting, didn't you?

16 **MR. ALBRIGHT:** Your Honor, is this an attempt to
17 invade the attorney-client privilege?

18 **MR. YETTER:** I am asking a question that I believe --

19 **THE COURT:** I didn't hear that. I'm sorry.

20 **BY MR. YETTER:**

21 Q You even had your lawyers involved in making this
22 decision, didn't you?

23 A Please clarify the meeting and the decision that you're
24 saying that we were involved in.

25 Q Sure. Your colleague, Jean Shaw, testified that you made

1 a presentation to the Commissioner with her findings in August
2 of 2014, right before she gave a deposition. You know that,
3 don't you?

4 A I don't recall it to be August, but yes we did meet with
5 the Commissioner and say, sir, this is what we found.

6 Q And you had counsel involved in that meeting before you
7 decided what you were going to do.

8 A Counsel did not decide what we were going to do. That was
9 my decision to ask for additional staff, and it has been fully
10 supported by the Commissioner.

11 Q Now, that was in August, right? But you're telling us
12 that this request that you have in March is where you were
13 asking for the additional people, even before you talked to the
14 Commissioner?

15 A That's correct.

16 Q How does that work?

17 A So the report was done and the study was asked for by Jean
18 Shaw for PMU. The report was dated January. At that same
19 time, when the results came out, we were creating exceptional
20 items for the upcoming legislative session and I said, you know
21 what, we need to ask for additional staff, let's put it in this
22 exceptional item. This was one of the things that I think can
23 support it.

24 Q Mr. Morris, do you have any idea of how many more dozens
25 and dozens of instances of abuse that actually took place where

1 your investigators ruled it out entirely because they did a
2 poor investigation?

3 A I'm not aware of any other findings or missed cases at
4 this point.

5 Q Well, it's because you've only looked at 111 and you made
6 an error in 75 percent of them, right?

7 A And we had a response to it.

8 **THE COURT:** Well, plus the other 48.

9 **MR. YETTER:** Well, the 48 is part of the 111, Judge.
10 So they looked at 111 and they were wrong 75 percent of the
11 time.

12 **THE WITNESS:** And we addressed it.

13 **BY MR. YETTER:**

14 Q And you have thousands of investigations that you do every
15 year.

16 A We have a thousand -- we have about 3,000, actually; a
17 combination of inspections for abuse and neglect and non-abuse
18 and neglect. That is correct.

19 Q And the far vast majority of them, your investigators say,
20 nope, I'm ruling it out, no abuse; no physical abuse, no sexual
21 abuse, no negligent supervision, no neglect. Right?

22 A I would need to go back and look and see what the
23 percentage of RTB's is.

24 Q Do you have any idea how many of those thousands that
25 you've just ruled out are flat wrong?

1 A I'm not aware of any of those that are flat wrong.

2 Q Because you haven't looked at any more, other than the
3 111, have you?

4 A We did follow up on some additional cases. I believe we
5 said we would do a 50 percent sample of the abuse and neglect
6 investigations that were done in a certain time period. That
7 follow-up has indicated to us that the numbers are looking
8 pretty good. We're still finishing the readings on one of
9 those cases. And what we're seeing is that the supervisors are
10 beginning to -- or, I'm sorry. The supervisors are now asking
11 the right questions. They're looking at the investigations
12 with, you know, a more open eye. They're asking the correct
13 questions. And so we have a better feel for the fact --

14 **THE COURT:** What questions did you find out were
15 wrong that they were asking?

16 **THE WITNESS:** What we did was we did a sample of case
17 readings, and what we specifically looked at was the
18 supervisor's review and the questions that they would be asking
19 relating to those investigations; things related to child
20 safety mostly. There's also some demographic information that
21 they looked at. But I would rely on Ms. Shaw to give the
22 details of those -- the follow-up on those case readings, as
23 well as --

24 **THE COURT:** Okay. When you went --

25 **THE WITNESS:** -- my current --

1 **THE COURT:** When you went back to interview -- or, to
2 re-look at the cases that were found believable, when they
3 hadn't been previously, were the children interviewed as well?

4 **THE WITNESS:** I believe they were.

5 **THE COURT:** Do you know that?

6 **THE WITNESS:** If the children were still in care.

7 **THE COURT:** Do you know if they were interviewed;
8 100 percent sure that they were interviewed?

9 **THE WITNESS:** I'm not 100 percent sure that the
10 children were interviewed, but I do know that some of the
11 children were no longer in care, ma'am. So I don't know if the
12 child left --

13 **THE COURT:** So you didn't -- that was not one of your
14 directives, to go out and find these children and see what they
15 have to say?

16 **THE WITNESS:** I would have to rely on Ms. Shaw to see
17 if she did that. I don't recall that being --

18 **THE COURT:** But you're the guy in charge, aren't you?

19 **THE WITNESS:** Yes, ma'am. Yes.

20 **THE COURT:** And you didn't have that as one of your
21 directives?

22 **THE WITNESS:** No, your Honor.

23 **BY MR. YETTER:**

24 Q So one of the things you told us is you brought all of
25 your people together and said do better investigations, right?

1 A Maybe not quite like that, but we made the expectation
2 clear that their performance needed to improve.

3 Q Did you train them better? Did you have like a weeklong
4 training session? Did you give them any more resources? Did
5 you --

6 A We did indeed.

7 Q You did indeed?

8 A We did indeed.

9 Q And what --

10 A We had that day that we met with them and then we also did
11 an all-staff meeting for all of our staff within Child Care
12 Licensing at the end of the fiscal year. I want to say it was
13 around the last week of August; maybe the 28th or 29th.

14 Q This is after you met with the Commissioner?

15 A I believe it was.

16 Q And how long did that meeting take?

17 A It was a weeklong; almost five days I think, five and a
18 half or four days. I'd have to go back and look.

19 Q And what did you do in that meeting?

20 A We addressed many different areas, but one of the areas
21 that we addressed was UTD's and the need to ask the right
22 questions and make sure we're doing solid work.

23 Q Now, why do you think this is limited just to the times
24 that they come up with UTD?

25 A I think that was the first place that we looked. It was

1 one of the things that Ms. Shaw was concerned about and so she
2 asked the question.

3 Q Now, it could be just as likely that it relates to all the
4 times that you rule out anything happening, right?

5 A Potentially, yes.

6 Q And you haven't told them anything about those, have you?

7 A Well, the thing that we would make sure that they were
8 understanding is that there is a very clear expectation that
9 their casework and their work has to be on point and it has to
10 be very accurate.

11 Q Now, one of the things that you've never done is try to
12 figure out, on a regular basis, how much work your inspectors
13 and investigators actually can handle during the normal work
14 week, have you?

15 A We have not yet undertaken a work measurement study if
16 that's what you're referring to.

17 Q I am. You don't monitor workload data at all do you?

18 A I do not have that data.

19 Q You don't have any workload targets at all do you?

20 A I don't have a workload target, but we do have a work
21 measurement study that is upcoming, and Licensing will be a
22 part of that.

23 Q You don't have any formal system for flagging workloads
24 that are too high do you?

25 A No.

1 Q You have not asked for a workload study; you, Mr. Morris,
2 has not asked for?

3 A I have asked for a workload study within Child Care
4 Licensing and we will be up next after APS, Adult Protective
5 Services.

6 Q I'm sorry, I didn't hear the first part of your answer.

7 A We have asked for a work --

8 Q So, when did you ask for it?

9 A -- measurement study. We're part of that.

10 Q After your deposition?

11 A No. The decision was made earlier this year. I want to
12 say in May. What I'm referring to is the work measurement
13 study that is part of the agency-wide effort. As Ms. Black had
14 testified, APS is the first one to start off. My understanding
15 is that Child Care Licensing is the next priority up after they
16 go through one of the work measurement studies to make sure
17 they get the bugs worked out. And then CPS would be after
18 that. Now, if that priority still exists, I would -- I think,
19 as an executive team for the agency, we'll go back and re-look
20 at that.

21 Q Now, you were asked about this in your deposition weren't
22 you?

23 A Yes.

24 Q And the question -- and I'll just ask you the question
25 again. Now, are you saying -- because this was just a couple

1 of months ago, right?

2 **MR. ALBRIGHT:** Could we get a page and line, your
3 Honor, please?

4 **THE COURT:** Certainly.

5 **MR. YETTER:** I'm actually on Page 140, Line 5.

6 **BY MR. YETTER:**

7 Q And your deposition was in September 2014.

8 And so let me just ask you generally -- in fact, as of
9 just two months ago, you said that a workload study "may be
10 contemplated, yes, in the future," right?

11 A Yes, I did.

12 Q You didn't say it was going to be next in line or anything
13 like that?

14 A No, I did not.

15 Q So all this happened just in the last two months before
16 trial?

17 A No, that's not correct.

18 Q Well, let's look -- you want to look at --

19 A APS is the first one up for the work measurement study.
20 We'll have to see what happens with that, and if it's
21 appropriate for Child Care Licensing to go next, they will. If
22 it's more appropriate for Child Protective Services to go next,
23 they will.

24 Q Okay. So a minute ago, I thought you said you were next
25 in line.

1 A Well, that's apparently how the priorities are set. The
2 priorities may change.

3 Q Two months ago you said "maybe it will be contemplated in
4 the future," right?

5 A I believe that's how I answered, yes.

6 Q "I don't know when that will be conducted," right?

7 A Correct, yes. But I also -- I believe I also said in the
8 deposition that it was discussed in May if I'm not mistaken.

9 Q I think what you said is that you have not sought for a
10 work measurement study to be a priority.

11 A I have not asked for a specific work measurement study to
12 be done just on Child Care Licensing as an independent effort.

13 Q Let's be -- I want to be clear.

14 A Okay.

15 Q You have not asked for a work study to be any sort of
16 priority for your group have you?

17 A I have not asked for an independent work measurement study
18 separate from the effort that's going to happen with all of
19 Family and Protective Services.

20 Q Well, okay. And I'm sorry, Mr. Morris, because this was
21 all in the same line of questioning. Let's look at Page 140
22 [sic]-- oh, you have the deposition. Okay. The fact is,
23 Mr. Morris, in your deposition you told us that it was not --
24 you thought there were other priorities that were more pressing
25 in your group, didn't you?

1 **MR. ALBRIGHT:** Can I get a page and line on that one?

2 **MR. YETTER:** Page 141, Line 13 to Line 18: "Have you
3 sought to make a work measurement study for Residential Child
4 Care a priority?" Do you remember your answer?

5 A I believe, as you said, I think I -- I believe I recall
6 saying that I didn't want to make that a priority at this time.

7 Q "I had not sought for a work measurement study to be a
8 priority for Residential Child Care. There are other
9 priorities right now that appear to be more pressing."

10 A That is correct.

11 Q Let's move to a different topic about quality assurance
12 that you no longer, apparently, are doing. All right,
13 Mr. Morris. You know what I'm talking about?

14 A If you'll refer to that, I will.

15 Q Sure. The PMU, your unit, used to do what they call data
16 and trend assessments, didn't they?

17 A That is correct.

18 Q So the PMU unit, that's your Quality Assurance unit; and
19 in 2011 and in 2012, they did a Child Care Licensing data and
20 trend assessment. Let's look at Plaintiffs' Exhibit 1111.
21 Does this look familiar? Let's blow that up if we can see that
22 middle part. Does this look familiar?

23 A Yes, it does.

24 Q Mr. Morris, this is from PMU. This is your Quality
25 Assurance. It's January 2011.

1 A This predates my time, but yes.

2 Q Okay. This is -- but you know about this because you're
3 the head of this group, are you not?

4 A It was one of the reports that I learned about recently
5 after the deposition.

6 Q Okay. Fair enough. You've been schooling up a little bit
7 before trial?

8 A I have.

9 Q Page 13. This, your Honor, is some data that you have in
10 the Class Certification Opinion. The follow-up data right in
11 the middle. And this is data we presented at the Class
12 Certification Hearing about untimely follow-up. Do you know
13 what I'm referring to, Mr. Morris?

14 A Follow-up on deficiencies, I believe.

15 Q You're exactly right. So this shows that follow-up was
16 not done within the timeframes for RC, would be your group,
17 Residential Child Care, right?

18 A RC and DC are both my groups, sir.

19 Q Both your groups.

20 And follow-up was done -- one-third of the time was done
21 late, if it was done. Right?

22 A It was done.

23 Q But it was done late.

24 A Not completed within timeframes.

25 Q So, investigations have to be timely to be effective,

1 don't they?

2 A Investigations should be timely, yes.

3 Q And follow-ups on investigations should be timely?

4 A It is best when those follow-ups are timely, yes.

5 Q The next part says the type of follow-up that you guys
6 were doing was not the best way to do it. "The type of follow-
7 up chosen was not the best method to reduce risk." Your group
8 deals with risks to the children, doesn't it?

9 A Yes. And I will just say that this is not a report that I
10 have delved into or spent much time on in my time as the
11 Assistant Commissioner.

12 Q I'm not surprised, because you guys stopped doing this
13 report after the Class Certification Opinion in 2013. For
14 example, not making an in-person inspection in the case of
15 health and safety-related issues; for your groups, for the
16 Residential Child Care, 41 percent of the time it was not done
17 using the right approach, correct?

18 A So the reason these weren't done, --

19 Q Am I right about --

20 A -- to reply to your comment.

21 Q Did I read that right?

22 A You're reading it correctly here and I can only assume
23 that if this was put into the report by PMU then it's correct.

24 Q All right. Let's go to the next year, to Plaintiffs'
25 Exhibit 1074. This is the same data and trend assessment by

1 your same group, issued --

2 A Actually, it -- and when you say the "same group," let's
3 be accurate on that if we could. When I became the Assistant
4 Commissioner for Child Care Licensing, the elements of PMU,
5 basically the staff, had been distributed amongst the different
6 divisions. One of the very first things I did when I landed in
7 Child Care Licensing was to put the PMU group back together and
8 make sure that we hired a division administrator to guide it
9 and make it better.

10 Q Good. Thank you.

11 So this is 2012, the same report for Child Care Licensing
12 data and trend assessment. Let's go to Page 12. And there are
13 the same statistics. Go to the top there. And this even look
14 worse. Well, you kind of started doing it backwards. The
15 follow-up was completed within the timeframes. So, the prior
16 year, you had said "which was untimely." This one is "which is
17 timely." And for Residential Child Care, it was "timely"
18 63 percent of the time, which means it was untimely
19 36.4 percent of the time, right?

20 A That would be the math, yes.

21 Q And that is a little bit worse than 2011, isn't it, which
22 you have 35.7 percent untimely?

23 A That would be the math, yes, sir.

24 Q Next line says: "The type of follow-up chosen -- " This
25 is where you got a little bit better. " -- was not the best

1 method." And, again, for the Residential Child Care,
2 22 percent was not using the correct method to reduce risks.
3 True?

4 A That's what the report says.

5 Q Now, for some reason, PMU didn't do these reports in 2013,
6 did it?

7 A No, they did not.

8 Q And for some reason, PMU did not do this report in early
9 2014 either, did it?

10 A That is correct. PMU staff looked at this and it said,
11 you know, the data and trend analysis report. And this is
12 something that I inquired into, as I'm learning more about PMU,
13 as I'm learning more about the division and my role as the
14 Child Care Licensing Assistant Commissioner. I said why aren't
15 we doing these? It was relayed to me by Leslie Reed, the
16 Division Administrator for PMU, that the data and trend reports
17 to PMU seemed like a big conglomeration of data, and just
18 putting data simply down on a report rather than doing more
19 analysis. They're looking for a better way to look at this
20 data. They're looking for more ways to ask the question: What
21 causes this? And then move forward from there.

22 Q So you didn't do these reports for the last two years,
23 right?

24 A Correct.

25 Q And you haven't -- I'll just represent to you the state

1 hasn't given us any data that would show what happened in 2013
2 and 2014 on these same statistics. Do you know it off the top
3 of your head --

4 A I don't know it off the top of my head.

5 Q -- and could you share it with us?

6 A But I do know that follow-up on deficiencies is one of the
7 reports that my Field Director has used, that their district
8 directors and regional managers use. That's one of what they
9 call the magic six reports.

10 Q Another problem that you guys have been looking into are
11 background checks, aren't you?

12 A Yes.

13 Q Those are important aren't they?

14 A They are indeed.

15 Q Because if you've got people going to these Child Placing
16 Agencies that have checkered backgrounds, children are at risk
17 aren't they?

18 A That is absolutely a possibility.

19 Q And, in fact, the State has been penalized for not doing
20 background checks properly? True?

21 A I believe they have been, yes.

22 Q In fact, the background checks have resulted in fines
23 levied against the DFPS; the State?

24 A I believe that is the case from the last IV-E audit. I'm
25 not sure what the fine is though.

1 Q The fines were in the millions of dollars, weren't they?

2 A I don't know what the number is, sir.

3 Q Let's look at Plaintiffs' Exhibit 902. And here is
4 another proposal; again, a draft. No one, apparently, has seen
5 this proposal either for more funding for your group. And it's
6 supposed to be due on March the 7th, 2014, right?

7 A Correct.

8 Q Now, again, you're the executive sponsor. Let's see if we
9 can see that. There we go. True?

10 A That's what it says right there in block four.

11 Q Okay. Now, let's pull those down and let's look at that
12 bottom Paragraph Number 7 to see what this one is about.
13 Again, this one that you apparently have never sent to anybody.
14 You're requesting funding for your program to proactively
15 review an operations compliance with background check
16 requirements, right?

17 A That's incorrect actually when you say that we didn't send
18 it to anyone. This is one of the exceptional items that we put
19 forth and was discussed with the executive team for DFPS and
20 Commissioner Specia. This is one of the ones that didn't make
21 the cut.

22 **THE COURT:** It did or did not?

23 **THE WITNESS:** It did not make the cut and it did not
24 leave the agency, your Honor.

25 **THE COURT:** I think that was what he was talking

1 about.

2 **BY MR. YETTER:**

3 Q Okay. Let me correct it then. You wanted to get funding
4 and the DFPS said no we're not going to ask for funding, right?

5 A We identified this as --

6 Q You, meaning your group, --

7 A -- one of the needs.

8 Q -- wanted to get funding and you were overruled?

9 A This was one of the things that did not make the priority
10 list.

11 Q That's a yes?

12 A That's correct.

13 Q Okay. So let's look to see what you were trying to do.
14 And it says: "A recent Title IV-E audit revealed a number of
15 errors related to background checks." Do you see where I'm
16 reading?

17 A I do.

18 Q That's risky for children isn't it?

19 A Errors related to background checks are risky to children.

20 Q That indicated risk to children and resulted in fines
21 against the State.

22 Let's go to the next page. I'm sorry, two pages more. On
23 Item Number 8 there's a -- oh, just that box that says "explain
24 factors." Okay. This is -- you are explaining why you want
25 this money:

1 "Due to numerous errors -- " Numerous errors. " -- in
2 the Title IV-E federal review related to background
3 checks, Texas has been fined millions of dollars."

4 Do you see that?

5 A Yes, I do.

6 Q Does that refresh your recollection of how significant the
7 fines are?

8 A Yes, it does.

9 Q "There still seems to be numerous errors which could
10 potentially cost Texas additional money in fines." Right?
11 True?

12 A Correct.

13 Q Making mistakes on background checks is a hugely risky
14 thing for children isn't it?

15 A It is.

16 Q "Current CCL staffing does not allow CCL -- " Your group.
17 " -- the opportunity to be proactive." There is that proactive
18 word again. You've been -- have you been in court when we've
19 been talking about a reactive management style versus a
20 proactive management approach?

21 A I know what you're referring to.

22 Q Okay. And here you're saying --

23 A I don't --

24 Q -- it would be good to be proactive because this is really
25 risk for children. Right?

1 A Yes, it would.

2 Q And you were overruled weren't you?

3 A For resources for this exceptional item for this effort to
4 continue? Yes.

5 Q "Give the CCL the opportunity to be proactive with helping
6 providers come into compliance with background checks before an
7 error occurs." Right?

8 A Correct. So what we currently have in place now, if I
9 may? Judge Specia and I signed a letter to all providers who
10 are licensed within the State of Texas, and I believe that went
11 out in mid-February, explaining the absolute necessity to do
12 appropriate FBI background checks. And, in fact, it was
13 something that was going to be required in 2014. There was not
14 a minimum standard for FBI background checks to be completed.
15 In addition to that, within DFPS, our Contracts area also did
16 proactive checks and worked with providers that we had under
17 contract with DFPS to ensure that their background checks were
18 done timely. As a result, -- and I checked with Ms. Shaw, she
19 has seen a marginal decrease in the number of background check
20 deficiencies that we've seen in Residential Licensing.

21 Q Now, the problem that you have is that when you're just
22 telling them do better background checks -- that's what you're
23 telling them, right?

24 A When we --

25 Q You're saying do better background checks?

1 A When we explain to providers that background checks are
2 something that they need to do? Yes.

3 Q But you're not having -- you don't have any new staff like
4 you said you needed to help them do the background checks?

5 A Correct. The effort that we undertook was out of --

6 Q And these are important because if foster -- foster
7 parents can be in a situation where they newly commit crimes.
8 You know that don't you?

9 A Yes.

10 Q And new adults, like boyfriends, can come into a foster
11 home; or relatives that create risks for these children, right?

12 A Correct.

13 Q Prior perpetrators of bad things can come into these
14 homes. That's why you have to be doing these background
15 checks, right?

16 A Correct. We want to check the backgrounds of any adult or
17 any individual over 14 who is in the home.

18 Q So now children getting to the age of 14 have to be
19 checked? True?

20 A Yes.

21 Q Because then they're getting to be young --

22 A If they're part of the care ratio, that's correct, sir.

23 Q There are getting to be youth that you need to check their
24 background, right?

25 A Correct.

1 Q But you don't keep track of their background on child-on-
2 child abuse do you?

3 A We do not track -- well, we do not actively track that
4 within a class. I believe there is a box to check it, but I
5 don't believe it's accurate.

6 Q So you could be having teenagers that have a history of
7 sexual predation and you have no idea about it, right?

8 A Well, define that teenager. Is it an individual who is in
9 the care ratio for the child? Is it an individual who is
10 required to have a background check, like a frequent visitor of
11 the home? If it's -- yeah, I think --

12 Q A child that --

13 A -- if you just say any individual who comes in the home
14 who is 14 or over, there is always a possibility for that. But
15 if they meet the requirement to have a background check then
16 they need to have one.

17 Q But if they're a foster child and they have a history you
18 don't check it? You don't even keep track of it?

19 A I don't believe we do.

20 Q All right.

21 So you know what a -- let me change to a slightly
22 different topic about your investigations. You know what a P1
23 and P2 investigation is?

24 A That's basically the priority.

25 Q Those are the worst --

1 A P1's you go out on.

2 Q -- the investigations of the worst incidents aren't they?

3 A Correct.

4 Q So a priority one abuse and neglect investigation is where
5 a child has been killed or there is an immediate threat of
6 serious and physical or emotional harm. True?

7 A A child fatality is classified as a P1, yes.

8 Q A priority two abuse and neglect investigation is where
9 there is an allegation of abuse and neglect, but the child is
10 currently safe or not at an immediate risk of serious physical
11 or emotional harm. Right?

12 A I believe that's the correct definition of a priority two.

13 Q And your investigators do priority one and priority two
14 investigations don't they?

15 A They do priority one, priority two, and all the other
16 priorities, yes, sir.

17 Q And a significant percentage, almost 10 percent of those
18 investigations, are rejected by their supervisors as
19 incomplete, right?

20 A I would have to go back and look at the percentage or the
21 measure.

22 Q Let's look at Plaintiffs' Exhibit 608. And this is -- can
23 we go up to the top piece, just the little top piece, so that
24 he can see what it is. This is from your group is it not?

25 A Count of RC abuse and neglect investigations for children

1 in DFPS conservatorship that were initiated. This looks like
2 the title of one of our six reports that are used in the field.

3 Q This actually came from your lawyers. It says it is an
4 Updated Ninth Set of Interrogatories, Interrogatory Number One.

5 A Yeah, that's interesting. I'm not sure what that is.

6 Q And let's go down to the bottom right corner and find out
7 what the date is. August 7th, 2014.

8 Let's go to the bottom left corner and find out what the
9 source of the information is. You know that the impact
10 database is your big master database, as well as the class data
11 warehouse?

12 A The impact database is the one that is used primarily by
13 CPS. The class database is the one that is primarily used by
14 Child Care Licensing, although we do use impact as well for
15 abuse and neglect investigations.

16 Q So let's go up to your numbers that you provided us during
17 this litigation. It's in that chart. And the number I'm going
18 to look at is the investigations. These are all priority one
19 and priority two. You can -- you're going to have to move --
20 oh, you're going to have to go a little bit farther to the
21 right -- to the left so we can see the far left column.

22 **MR. SPEAKER:** That one is just cut off.

23 **MR. YETTER:** It just got cut off.

24 **MR. SPEAKER:** On your screen.

25 **MR. YETTER:** Oh, okay. Thank you. Okay.

1 **BY MR. YETTER:**

2 Q Well, the far left column says priority one and two. Do
3 you see that?

4 A I do.

5 Q And then the next column talks about the total. There are
6 1500 investigations, true, total. This is for fiscal year --
7 or, for the year between July of 2013 and June of 2014, right?

8 A I believe that's what the title said.

9 Q And then tracking across the bottom, let's highlight the
10 number of investigations rejected by supervisor. And do you
11 see what that number total is?

12 (No audible response)

13 143 out of 1510, right? Do you see that?

14 A I do, yes.

15 Q Rejected by the supervisor means it was a bad
16 investigation for some reason. True?

17 **THE COURT:** Can I -- I want to make sure I wrote this
18 down right. Forty-eight percent of the roughly 3,000
19 investigations a year are unable to determine?

20 **MR. YETTER:** Nope. No, your Honor.

21 **THE COURT:** What was it?

22 **MR. YETTER:** So can I clear it up with the witness?

23 **THE COURT:** Please.

24 **MR. YETTER:** Okay.

25 //

1 **BY MR. YETTER:**

2 Q So of the 3,000 investigations, findings are made on all
3 of them basically. A very small number is unable to determine,
4 right?

5 A I believe that's correct, yes.

6 Q And a very small number is reason to believe, right?

7 A I'm actually not sure what the number of RTB is.

8 **MR. YETTER:** The vast bulk of these, your Honor, is
9 they rule it out, so they --

10 **THE COURT:** No reason to believe?

11 **MR. YETTER:** No reason. It's called ruled out; no
12 reason to believe. They only looked at one little group that's
13 unable to determine and found it was, as the Court has heard
14 the evidence, vastly inaccurate.

15 **THE COURT:** What percentage are unable to determine?

16 **THE WITNESS:** I don't have that percentage off the
17 top of my head. I would have to pull that information for you,
18 your Honor.

19 **MR. YETTER:** It's our understanding it's a small
20 percentage and that the vast majority are ruled out. And the
21 reason why we --

22 **THE COURT:** So you haven't done any studies like you
23 did on the unable to determine as to the category of no reason
24 to believe?

25 **MR. YETTER:** Correct. I'm sorry. You should answer

1 the question.

2 **THE WITNESS:** I don't believe we have looked at that.

3 **THE COURT:** Why not?

4 **THE WITNESS:** I'm not sure, your Honor.

5 **MR. YETTER:** That's the iceberg, Judge. That's the
6 everything under the water. It's a huge group of findings
7 that --

8 **THE COURT:** Does anybody have those numbers; what
9 percentages are reason to believe, no reason to believe?

10 **MR. YETTER:** We'll check here, your Honor. I'm sure
11 the State has them.

12 **THE COURT:** Do you think you've got them,
13 Mr. Albright?

14 **MR. ALBRIGHT:** Yes, your Honor, we can present the
15 Court with the percentage of investigations in a given year and
16 what percentage are UTD's.

17 **THE COURT:** That would be great. Thank you.

18 **MR. ALBRIGHT:** And I'll just -- off the top of my
19 head I don't know, but I think the 111 for --

20 **THE COURT:** Maybe even all of them?

21 **MR. ALBRIGHT:** I think it will probably be 111 out of
22 3,000, roughly.

23 **THE COURT:** Okay.

24 **MR. ALBRIGHT:** But we'll confirm that. Someone
25 please remember that. We'll confirm that.

1 **THE COURT:** Thank you. But I'd like the percentages
2 to all of them if you could; all three categories.

3 **BY MR. YETTER:**

4 Q Just to close that last topic we were on. Almost
5 10 percent of the priority one and priority two investigations
6 were rejected by the supervisors as defective in some way?

7 A Correct.

8 Q These are very serious investigations, right?

9 A Absolutely.

10 Q All right.

11 Now let's go to -- you do some random sampling through
12 your Licensing group don't you?

13 A Yes, we do.

14 Q You're supposed to go inspect one quarter of all the
15 agency foster homes every year. True?

16 A Correct.

17 Q You're supposed to inspect them, getting a random sample,
18 aren't you? This is --

19 A Correct. And we want to increase that number to a third.

20 **THE COURT:** These are not the ones that are privately
21 contracted?

22 **THE WITNESS:** These are all foster homes, I
23 understand, your Honor.

24 **MR. YETTER:** These are or these do include the
25 private contract?

1 **THE COURT:** Both.

2 **MR. YETTER:** Both. Yes, your Honor.

3 **BY MR. YETTER:**

4 Q I actually think these -- aren't these just limited to the
5 private ones, the CPA's that are privately owned?

6 A No.

7 Q Oh.

8 A I believe that includes the homes that are --

9 Q State owned?

10 A -- part of CPS and CPA. That's my understanding.

11 Q And you're doing --

12 A I'm sorry.

13 Q You're doing these random sample inspections so that you
14 can -- for safety for the children, aren't you?

15 A Yes.

16 Q And the fact is you're not doing them all are you?

17 A I have to look at the number to see which ones we haven't
18 conducted. I believe we are.

19 **THE COURT:** Well, have you done a fourth for the
20 year?

21 **THE WITNESS:** I'm sorry your Honor?

22 **THE COURT:** Have you done a fourth for this year,
23 2014?

24 **THE WITNESS:** I'll have to go and look, your Honor,
25 to see if I can pull that information. I would have to go back

1 and see if we're not conducting the full quarter of our
2 samplings.

3 **BY MR. YETTER:**

4 Q No need to go back and see. I have an exhibit.
5 Plaintiffs' Exhibit 666. This is another document.

6 **(Pause)**

7 And this is in evidence. This is another document --
8 if you can just blow up the chart for us; there you go, thank
9 you -- that the State provided in discovery. This is on the --
10 these are announced and unannounced random sampling
11 inspections. Do you see where I'm referring to, Mr. Morris?

12 A I do, yes.

13 Q This is for two calendar years, 2012 and 2013. This is
14 the information that we got from the State and in the way that
15 they provided it. And so let's -- we have total homes for each
16 year: 14,235 for 2012. And of that amount, 2,148 got announced
17 inspections and 253 got unannounced inspections, right?

18 A That's what it says. Yes, sir.

19 Q Okay. You're supposed to be looking at 25 percent every
20 year aren't you?

21 A We are supposed to do --

22 Q Twenty-five percent every year.

23 A -- 25 percent sampling, yes.

24 Q Okay. So let's add those two. Let's highlight the
25 percent announced inspections and the percent unannounced

1 inspections, and let's just add those two. Well, for 2012
2 first, if we can just put those in yellow. There you go.
3 Okay. I'm not going to try to test your math. You're a
4 numbers guy, but I can give you that number. It's
5 16.87 percent. So you're supposed to do 25 percent, and in
6 2012 you did just under 17 percent.

7 Now, let's look for 2013. Again, you add the numbers up.
8 You come up right almost exactly at 17 percent.

9 So if you're supposed to be doing 25 percent of the homes
10 every year and you're only doing 17 percent; again, you could
11 do the math. But that's way low isn't it?

12 A That number is not 25 that we should be doing, and this
13 would make me ask additional questions of Ms. Shaw to
14 understand why the percentage of announced and unannounced
15 inspections in the samplings.

16 **THE COURT:** Don't you know these things as head of
17 that department?

18 **THE WITNESS:** Well, this is one of the things that I
19 would, in fact, rely on Ms. Shaw for, your Honor.

20 **THE COURT:** Rely on her for what?

21 **THE WITNESS:** To explain to me if I had questions
22 like this.

23 **THE COURT:** Well, if you don't ever see the numbers
24 and don't ever ask to see them, why would you even ask for an
25 explanation? I mean, isn't this something you're supposed to

1 be in charge of?

2 **THE WITNESS:** This is something that I'm in charge
3 of, yes, your Honor.

4 **BY MR. YETTER:**

5 Q So Mr. Morris, if you do the math, you're doing almost a
6 third fewer inspections than you're supposed to be doing?

7 A And I would want to know why.

8 Q So would I.

9 A I would need to look into this a little bit further.

10 Q But the numbers say you're doing one-third less than what
11 you're supposed to be doing, true?

12 A That's what this number says, yes.

13 Q One more category of inspections, and this is follow-ups.
14 You know what follow-ups are, to make sure an operation is in
15 compliance with the standard that they have been deficient on?

16 A We follow up on deficiencies to see if they've been
17 corrected.

18 Q Now, it's obviously really important to find facilities
19 that have problems and deficiencies, isn't it?

20 A Yes, it is.

21 Q And if you tell them to fix it, that's important too,
22 isn't it?

23 A Correct.

24 Q But if you don't follow up, you're going to have problems
25 aren't you?

1 A Yes.

2 Q And it has to be timely, doesn't it?

3 A It has to be timely, yes.

4 Q And the rules of your group says it has to be within
5 15 days, doesn't it?

6 A Yes, it does.

7 Q And you don't -- a substantial portion of your follow-ups
8 are not timely are they?

9 A I'm not sure what that number is. The number of follow-
10 ups is one of the percentages or performance measures that is
11 used by our directors in the field to follow up on.

12 Q Let's go to Plaintiffs' Exhibit 724. This is, again,
13 information that the State provided to us. And this is on
14 these very important follow-ups on facilities that have
15 deficiencies. So these are facilities that have a problem; a
16 bad thing is somewhere in the facility, right?

17 A A deficiency in the facility?

18 Q Yeah. And you told them --

19 A A deficiency could --

20 Q -- they have something deficient.

21 A It could be any number of things as a deficiency in a
22 facility. It could be something related to a broken line in
23 the physical plan. It could be a ratio. It could be --
24 there's any number of things that we would cite deficiencies
25 for.

1 Q It's something that has to be fixed?

2 A It's something that needs to be fixed, yes.

3 Q All right. So here you have --

4 A But there are high and low and medium weighted
5 deficiencies.

6 Q Here you have your same two years, calendar year 2012 and
7 2013. I want to look at the last two columns. These are the
8 numbers of standards deficiencies cited for monitoring. In
9 other words, you had to go back and follow up. So you can just
10 highlight these two boxes please. There you go. So that's the
11 number you're supposed to go follow up on. And then the last
12 column is the ones you actually did follow up on timely within
13 15 days. Do you see that?

14 A Yes.

15 Q Okay. It's obviously not -- you didn't do 100 percent did
16 you?

17 A Not of these deficiencies that you're noting here.

18 Q In fact, I've done the math and in 2012, 26.4 percent of
19 the deficiencies were not followed up timely. I can give you a
20 calculator if you want to check it. But does that math look
21 about right?

22 A That math looks about right.

23 Q 2013, 24 percent of the deficiencies were not followed up
24 timely in your group.

25 A Correct.

1 Q And one last topic. The PMU --

2 A Well, that would make me ask the question now: How timely
3 is it? Did they miss it by a day or did they miss it by two
4 weeks? It would make --

5 Q Let me ask --

6 **THE COURT:** Well, this is your department. Isn't
7 that something you're supposed to know? I mean, don't you call
8 for these charts to be made?

9 **THE WITNESS:** Your Honor, this is one of the
10 performance measures that I rely -- or, that are tracked by our
11 district directors and regional managers in the field. And
12 that's something that I rely on my directors of --

13 **THE COURT:** And they don't ever get to you?

14 **THE WITNESS:** My directors of field would notify me
15 if there were issues. But, again, they would --

16 **THE COURT:** Have you ever been notified?

17 **THE WITNESS:** I have not been notified that we have
18 significant problems with the deficiencies. And I feel
19 confident that if we did, Ms. Shaw and Julie Richards, my
20 Director of Field for Daycare, would let me know. Again, they
21 would look at these --

22 **THE COURT:** What exactly do you review as head of
23 this department to see if things are working right? Clearly
24 not --

25 **MR. YETTER:** Timeliness, accuracy, and completion of

1 random sampling.

2 **THE WITNESS:** To answer your Honor's question, the
3 things that I would look at are the things that are on our new
4 executive dashboard. I am interested in things like turnover.
5 I am interested in things like caseload. I do watch things
6 like our budget to make sure that, you know, we're operating
7 within the resources that we have.

8 **BY MR. YETTER:**

9 Q It's clear, Mr. Morris, that here you are sitting, and
10 we're in court in December 2014, and this data is one or two
11 years old and you're hearing it for the first time, right?

12 A If it was one or two -- if it was two years old and it was
13 before my tenure, yes, it's probably something that I am
14 hearing for the first time.

15 Q Well, you were here for 2013, right?

16 A I was here in July of 2013, yes.

17 Q So the last topic is your PMU group, your Quality
18 Assurance Group. And one of the problems that it has is it has
19 no regulatory teeth does it?

20 A That was a comment that was made by one of our staff and I
21 don't know that I would agree with that, and I don't know that
22 "regulatory teeth" is a direction that I want my PMU unit to
23 go. What I would rather they do is lean towards collaboration
24 and working with the directors of field directly to ensure that
25 any trends identified, any information noted, is directly

1 reported to them.

2 Q Well, my question, Mr. Morris, was that your PMU group
3 does not have any regulatory teeth does it?

4 A No. That --

5 Q In other words, it can't enforce the things that, as a QA
6 group, it recommends?

7 A They can enforce. They direct report to me, as do the
8 directors of field.

9 Q So let's look at Plaintiffs' Exhibit 1091. This is not a
10 new issue to you. You know what I'm talking about don't you?

11 A This is part of -- I'm sorry, I can't --

12 Q Let's blow up that top --

13 A Thank you.

14 Q Just that top email. There you go. Okay.

15 This is an email from William Wright on July 16th, 2013;
16 about 18 months ago. Right?

17 A Yes, it is.

18 Q And it's PMU. The subject is PMU feedback. True?

19 A Yes, it is.

20 Q And you know this because you eventually reviewed his
21 feedback didn't you?

22 A I directed that they do an assessment of PMU to make sure
23 that it was moving in the right direction once we put it
24 together.

25 Q And his feedback was one reason that you actually then

1 promoted this fellow; William Wright?

2 A I think a great deal of Mr. Wright.

3 Q And one of his -- and you felt so much about his
4 recommendations, you promoted him to be one of the top
5 executives of the PMU, didn't you?

6 A I promoted Mr. Wright. He actually applied for the job
7 and I hired him as the Division Administrator for the
8 Performance Management Unit. He was the leader that I gave
9 them to put PMU back together. That's correct.

10 Q And one of the things he suggested, he recommended, was
11 that it get regulatory teeth. True?

12 A That's an interesting comment, but yes that's one of the
13 things that he said.

14 Q And now that he is no longer there, you don't think that
15 was such a good suggestion?

16 A I don't know that regulatory teeth was a good suggestion
17 when he was here.

18 Q Let's go to Page 6 of Mr. Wright's suggestion. And,
19 again, it's clear that you thought -- let's go -- it's bullet
20 number five. You think that this fellow, Mr. Wright, is
21 actually very good don't you?

22 A I do, yes.

23 Q And you think that PMU being an independent body, an
24 autonomous group, is important don't you?

25 A Under the control of state office, absolutely -- well, as

1 a direct report, yes.

2 Q And he suggested that you should give PMU independent or
3 autonomous, although structured, regulatory teeth in regards to
4 the performance of certain units and/or districts, right?

5 A That's what he said, yes.

6 Q So basically you'd have your QA people trying to make the
7 rest of your group better by their independent assessment,
8 true?

9 A That's what he suggested.

10 Q And you have not done that have you?

11 A We have not given them regulatory teeth, no. What we have
12 done is make sure that PMU, Policy and Operations, and the
13 Performance Development -- or, the Professional Development
14 Division all meet on a monthly basis, and that PMU was elevated
15 to be one of the CCL management team that reports directly to
16 me. So, in other words, rather than giving them regulatory
17 teeth ensuring that they work closely with their peers so that
18 those individuals working for PMU can speak directly to the
19 district directors and the regional managers who work within
20 Licensing.

21 **MR. YETTER:** Your Honor, I pass the witness.

22 **THE COURT:** Thank you.

23 **(Requested transcription concluded at 4:37 p.m.;**
24 **proceeding continued)**

25

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

A handwritten signature in cursive script, appearing to read "Toni Hudson", is positioned above a horizontal line.

January 10, 2015

TONI HUDSON, TRANSCRIBER